

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4968

IN THE MATTER OF:

Served November 14, 1996

Application of ELLERBE GROUP)
CORPORATION, Trading as ELLERBE)
CORPORATION TRANSPORTATION)
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-96-56

By application filed September 26, 1996, Ellerbe Group Corporation, a District of Columbia corporation trading as Ellerbe Corporation Transportation Service, seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Notice of this application was served on October 1, 1996, in Order No. 4946, and applicant was directed to publish further notice in a newspaper and file an affidavit of publication. Applicant complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, applicant's corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

Applicant proposes commencing operations in one station wagon, two sedans and a town car. Applicant proposes purchasing vans at a later date.

Applicant proposes a general tariff containing flat rates for service in vans -- dubbed "WHEELCHAIR VAN" rates -- plus zone rates and interstate mileage rates for service in sedans and station wagons. The tariff states that "[r]ates for sedan and station wagon vehicles will be the same as taxi cab rates on zone rates." The zone rates roughly correspond to the rates promulgated by the District of Columbia Taxicab Commission. The interstate mileage rates are identical to the interstate taxicab rates promulgated by this Commission for service in DC taxicabs.

Applicant also proposes a contract tariff under which applicant must submit "cab vouchers" in order to receive payment for services rendered at applicant's "usual and customary rate as established by the District of Columbia."

Applicant filed a balance sheet as of September 1, 1996, showing assets of \$31,440; liabilities of \$3,500; and equity of \$27,940. Applicant's projected operating statement for the first

twelve months of WMATC operations shows operating income of \$224,000; expenses of \$127,646; and net income of \$96,354.

Applicant certifies it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire. Applicant further certifies that neither applicant nor any person controlling, controlled by, or under common control with applicant has any control relationship with a carrier other than applicant.

DISCUSSION AND CONCLUSION

This application is governed by Title II of the Compact, Article XI, Section 7(a), which provides in pertinent part:

the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that --

- (i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
- (ii) that the transportation is consistent with the public interest.

Based on the evidence in the record, the Commission finds applicant to be fit, willing, and able to perform the proposed "wheelchair van" transportation properly and to conform with applicable regulatory requirements. The Commission further finds that the proposed "wheelchair van" transportation is consistent with the public interest. The application is otherwise denied.

We cannot approve that part of the application proposing general tariff service based on taxicab rates, nor can we approve that part of the application proposing contract tariff service as supported by taxicab vouchers. Taxicabs and other vehicles that perform a bona fide taxicab service are exempt from certification under the Compact.¹

Applicant is admonished that a WMATC carrier may not conduct certificated operations in a vehicle with taxicab markings.²

THEREFORE, IT IS ORDERED:

1. That Ellerbe Group Corporation, trading as Ellerbe Corporation Transportation Service, 5212-4th Street, N.W., Washington, DC 20011, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport

¹ In re Seth, Inc., t/a Kids Kab, No. AP-93-40, Order No. 4243 at 3 (Feb. 9, 1994).

² In re Action Airport Shuttle, Inc., No. AP-96-05, Order No. 4819 (Apr. 19, 1996).

passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That applicant is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations and indicating which vehicles will be used in WMATC operations and which will not; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

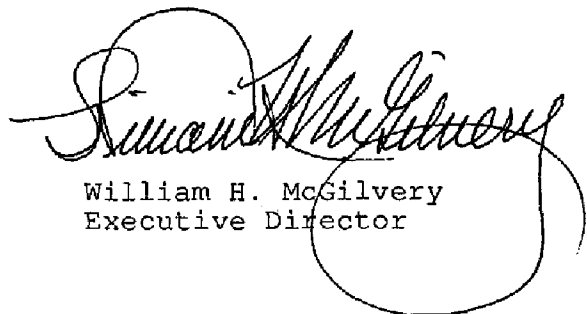
3. That applicant shall present all of its vehicles for inspection by Commission staff.

4. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 370 shall be issued to applicant.

5. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

6. That unless applicant complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director

